

REMARKS

Objection to the Specification

The specification has been updated as requested, showing the current information for the previously referenced parent application.

Final Status of Office Action

Per paragraph 10 of the December 28, 2006 Office Action, the present Office Action was made FINAL as “Applicant’s amendment necessitated the new ground(s) of rejection” presented in the Office Action. However, in Applicant’s response of 10 October 2006, the sole amendment to the claims was a substitution of the known generic name for Kevlar in claim 6. No amendment was made to claim 1. No amendment has been made to claim 1 since the preliminary amendment of 15 January 2004.

Thus, if it was determined that new grounds of rejection were necessary in the pending Office Action, such was NOT necessitated by Applicant’s amendment. In light of the lack of such amendment, and the issuing of new grounds of rejection using prior art not previously cited during prosecution of the present application, it is requested that the status of Final for the present Office Action be reconsidered and withdrawn.

35 U.S.C. § 103

Claims 1-6 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Published PCT Application WO 98/54008 A1 in view of Meyer et al. (1,226,236), Wallace (2,625,981), Loomis (2,688,996), Wykoff (2,754,887) and Japanese Patent Application 10-193473A. This rejection is respectfully traversed for the following reasons.

In paragraph 5 of the Office Action, in response to Applicant’s prior response, it is implied that Applicant attacked the references in the prior rejection individually, without addressing the combination. This is incorrect. Applicant did point out the specifics of what Wallace is teaching; Applicant also specifically addressed the combination of references and what one skilled in the art would do with the combination of references. Pointing out the negative or contrary teachings of a reference, while addressing how those negatives would be treated in the context of all the art, is not impermissible. Ignoring the negatives, or contrary teachings of the art, in an attempt to cobble together a rejection is what is not permissible, as noted in MPEP 2414.02. See W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d, 220 USPQ 3030 (Fed. Cir. 1983), *cert. Denied*, 469 U.S. 851 (1984) “When using a reference in a

prior art rejection, the prior art must be considered in its entirety, including any disclosures that teach away from the claim.”

The goal of any rejection in determining *prima facie* obviousness is, as noted by the courts, “casting the mind back to the time of the invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field.” See In re Dembiczak, 175 F. 3d 994, 999 50 USPQ2d 1614, 1617 (Fed Cir. 1999). Thus, what is taught in the secondary references must be reviewed for what they actually teach and how that fits in with what the primary reference is teaching.

In the current Office Action, Meyer, Wallace, Loomis, Wykoff, and Japan 473 are all cited as collective showing it is known to precure overlapping portions in tires to prevent slippage during shaping and curing of the tire blank. It is thus held, that in light of this collective body of work, it would have been obvious to precure the overlap portion of WO 98/54008. Again, Applicants disagree.

First, not all of the art cites partial precuring for the reason asserted of preventing “slippage during shaping and curing of the tire blank.” Three of the references cited never raise this as a concern or goal of the disclosed inventions. In particular, Meyer is concerned about stretching of the fabric and post cure wear, Loomis desires to remove a ridge on the inner face of the tire to reduce wear on the later inserted inner tube (an item not even used in modern conventional pneumatic tires), and Japan 473 teaches precuring to prevent sidewall deformations due to a bulge. Thus, any assertion that these references teach precure to “prevent slippage during shaping and curing of the tire blank” is purely speculative and not supported by the references themselves. One skilled in the art reviewing these three references, even as a whole, would not be taught to precure overlaps of different carcass plies to prevent slippage wherein the resulting composite ply limits the stretching to only one of the elements that has been precured, as presently recited.

At the risk of again being accused of attacking the references individually, the following is noted regarding each secondary reference.

Meyer et al is concerned about stretching of the woven carcass fabric in the crown and fulling, or gathering, of the carcass fabric in the bead regions. To resolve this, after the tire is assembled, the green tire is subjected to heat to allow the fabric to readjust itself, and then partial vulcanization is done to reset the adjusted fabric in the torodial object. Then the tire is fully cured. Meyer et al fails to teach precuring of just the overlapped portions of the tire, but precuring of the entire green tire.

Wallace teaches, to reduce tire growth and reduce rubber strain, building a tire with shorter than usual rubber components and stretching the components during full vulcanization. To prevent slippage of the uncured carcass around the beads during full vulcanization, the entire bead region of the tire is precured prior to a final curing of the tire. By precuring the entire bead region, Wallace achieves stabilization of the carcass ply ends.

Loomis seeks to eliminate a problem encountered when curing tires without a curing bag: ridges on tire interior formed by splicing the material create wear on the tire inner tube during tire performance. To achieve a smooth inner face on the inside of the tire, the splice of the bias cord ply is flattened by use of heat and pressure and cured before the band is assembled with other material. Loomis fails to teach precuring of an overlap of two different components.

Wykoff discloses butt splicing the innermost carcass ply by overlap splicing the air impervious inner liner. The overlap splice of the inner liner may be partially vulcanized to maintain the tubular product during the tire build. The splice is along the lateral width of the intermediate article, not along the circumferential length of the intermediate article. The remainder of the tire is assembled in the normal manner.

Japan 10-193473 discloses overlap splicing of a single ply of carcass material. The carcass cords are a heat shrinkable organic fibre cord and the goal of the pre-vulcanization is to shrink the cords prior to full molding so as to prevent an uneven external appearance in the side of the tire. As both Applicants claim and WO 98/54008 are directed to a non-extensible carcass ply, the teachings of Japan 10-193473 regarding precuring a heat shrinkable organic fibre cord (a cord of completely different characteristics than that recited or disclosed by WO 98/54008) are not even applicable and one skilled in the art would not look to the teachings of Japan 10-193473 in combination with WO 98/54008.

To establish *prima facie* obviousness, there 1) must be some suggestion or motivation in the art to modify or combine the references; 2) must be a reasonable expectation of success and 3) the combined references must teach or suggest all the claim limitations. Graham v. Deere. The present rejection fails to meet all three of the above requirements.

Taken collectively, what the majority of the cited art teaches is that the *lateral* splice of the main carcass ply should be pre-cured for a variety of reasons: to eliminate bulges, to eliminate sidewall dimples, or to maintain the butt splice of the carcass ply on the building drum. Two of the references teach precuring of large portions or the entire tire so that either the carcass plies may “readjust” or so that smaller tire components may be used in the tire formation. But for Wykoff, who teaches precuring of the inner liner with the lateral butt

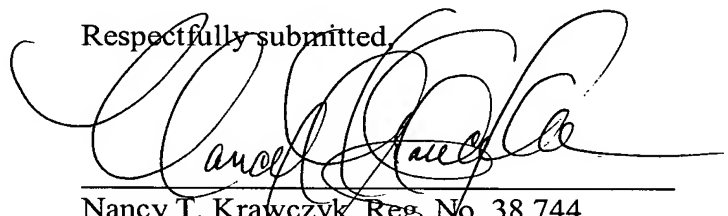
splice of the carcass ply, none of the references teach selective precuring of only two elements, and none, including Wykoff, teach selective precuring of a carcass ply and carcass ply extension and none teach selective precuring of a carcass ply and carcass ply extension formed of different materials wherein all stretching occurs in the ply extension.

Thus, while there might be a suggestion in the prior art to do some precuring in the tire of WO 98/54008, there is no suggestion or motivation in the art to modify the manufacturing or the intermediate article of manufacture of WO 98/54008 to result in precuring of the overlap of the main carcass ply and the ply extensions in the manner recited.

As WO 98/54008 A1 in view of Meyer et al., Wallace, Loomis, Wykoff and Japanese patent application 10-193473A fails to establish *prima facie* obviousness of the invention as recited in the claims, it is respectfully requested that the rejection be withdrawn.

In light of this amendment, all of the claims now pending in the subject patent application are allowable. Thus, the Examiner is respectfully requested to allow all pending claims.

Respectfully submitted,



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